

**MOT**

Howard C. Kim, Esq.  
Nevada Bar No. 10386  
E-mail: [howard@hkimlaw.com](mailto:howard@hkimlaw.com)  
HOWARD KIM & ASSOCIATES  
400 N. Stephanie St., Suite 160  
Henderson, Nevada 89014  
Telephone: (702) 485-3300  
Facsimile: (702) 485-3301  
*Attorneys for Chapter 7 Trustee*

E-filed on August 13, 2010

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In re:	)	Case No. BK-S-10-18521
	)	Chapter 7
Mary S. Fries,	)	
	)	<b>TRUSTEE'S MOTION TO SELL REAL</b>
Debtor.	)	<b>PROPERTY</b>
	)	
	)	Date of Hearing: OST pending
	)	Time of Hearing: OST pending
	)	
	)	Hon. Judge Mike A. Nakagawa

**TRUSTEE'S MOTION TO SELL REAL PROPERTY**

COMES NOW Chapter 7 Trustee, David A. Rosenberg, by and through his counsel, Howard C. Kim, Esq., of the Law Firm Howard Kim & Associates, moves the Court for an order pursuant to 11 U.S.C. §363(f) authorizing Trustee's Motion to Sell Certain Real Property located at 1716 N. Canal St. Carlsbad, New Mexico ("Property").<sup>1</sup> This Motion is made and based upon the following memorandum of points and authorities, attached Exhibits, the declaration of Howard C. Kim, Esq., filed contemporaneously herewith and any oral argument the Court may entertain.

In support of this Motion, Trustee states and alleges as follows:

- On May 10, 2010 (the "Petition Date"), Mary Fries ("Debtor") filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code, 11 U.S.C. §§ 101 et cet. Subsequent to the Petition Date, the Trustee was appointed in the above-referenced case.

<sup>1</sup> It is a mobile home park known as "Town & Country Mobile Home Park." A more particularly described in the legal description attached as Exhibit 1.

HOWARD KIM & ASSOCIATES  
400 N. STEPHANIE ST., SUITE 160  
HENDERSON, NEVADA 89014  
(702) 385-3300 FAX (702) 385-3301

2. In Schedule A of her petition, Debtor listed real property located at 1716 N. Canal St. Carlsbad, New Mexico, commonly known as "Town & Country Mobile Home Park", which she valued at \$200,000.00. Debtor also listed the New Mexico Property as to be "Surrendered" in her Statement of Intentions.
3. The Secured Creditor consents to the Motion to Sell Real Property on an Order Shortening Time.
4. Trustee is informed and believes that the Property is in need of many repairs and maintenance, and is subject to delinquent taxes.
5. Debtor purchased the Property in 2005 from Mervil and Eleanor Yarboroughs (the "Secured Creditor") through a carry-back mortgage loan wherein the Secured Creditor retains the legal title to the property and Debtor holds equitable interest in the her equity, until such time the mortgage is paid in full.
6. As of the petition date, Debtor defaulted on the mortgage loan and still owed the Secured Creditor approximately \$247,000.00.
7. Since the appointment, Trustee has been trying to ascertain the true value of the New Mexico Property and trying to market the property for sale.
8. During the course of this case, Trustee has received inquiries from a few prospective buyers, as Trustee is willing to entertain third party offers to purchase the Property free and clear, with interests to attach to the sale proceeds. All interested parties were advised to submit their intentions in writing and further advised that the Trustee will accept (subject to the Court approval and any overbids at the hearing to approve the sale) the highest all-cash offer for the Property, on an "as is, where is" basis. In order to induce all interested parties to make their highest and best offers for the Property, Trustee advised the prospective buyers that the Trustee would recommend to the Court, in its Motion to sell, that the entity submitting the highest and best offer for the Property be granted a "right of last refusal" to match any overbids made at the hearing to approve the sale.

HOWARD KIM & ASSOCIATES  
 400 N. STEPHANIE ST., SUITE 160  
 HENDERSON, NEVADA 89014  
 (702) 385-3300 FAX (702) 385-3301

9. Trustee has obtained a cash offer to purchase the Property from a prospective buyer, Adam Trubow, at a price that exceeds the amount owed (\$267,000.00) to the Secured Creditor. Adam Trubow is a disinterest party to this case. See Letter of Intent to Purchase attached hereto as Exhibit 2.
10. The terms and conditions of the proposed sale are as follows:
  - a. Purchase Price: \$267,000.00, subject to any overbids and this Court's approval. Buyer is to pay all closing costs and delinquent taxes.
  - b. Condition of Property: Subject to buyer's inspection, to be performed within 10 days of the sale.
  - c. Close of Escrow: The close of escrow shall be on or after the entry by this Court of an order approving the sale.
  - d. Sale Free and Clear of Interests: Pursuant to 11 U.S.C. § 363(f), the sale shall be free and clear of the previously set forth lien of the Secured Creditors.
  - e. Broker's Commission: No broker was involved in the sale of the Property, and therefore, no broker's fee shall be paid.
11. The proposed purchased price would bring close to \$20,000.00 to the estate for the benefit of the unsecured creditors.<sup>2</sup>
12. Trustee and Secured Creditor believe that it would be in the best interest of the estate to sell the Property to Adam Trubow, subject to overbids as outlined in this Motion.
13. Trustee seeks to have this matter heard on an order shortening time because an expeditious closing date can avoid the necessity of expending funds for maintenance and repair.

///

---

<sup>2</sup> This sale does not involve a real estate broker, thus resulting in no commission. Furthermore, the prospective buyer will pay all closing costs, fees and taxes, and inspection fees.

